



CITY OF SAN DIEGO

CHAIRPERSON'S REPORT

TO THE:

CITY COUNCIL STRONG MAYOR-STRONG COUNCIL TRANSITION COMMITTEE

Scott Peters, District 1, Chair
District 2 - Vacant

Toni Atkins, District 3 Councilmember

Tony Young, District 4 Councilmember

Brian Maienschein, District 5 Councilmember

Donna Frye, District 6 Councilmember

Jim Madaffer, District 7 Councilmember

District 8 - Vacant

DATE: September 27, 2005

ATTENTION: City Council Transition Committee
Meeting of September 28, 2005

SUBJECT: Proposed Permanent Rules of Council and Ordinances creating the Office of Independent Budget Analyst and amending the Municipal Code to implement the Mayor-Council form of Government

SUMMARY

Issues

1. Should the proposed Permanent Rules of Council (Subitem A) be recommended for approval by the City Council?
2. Should draft ordinances establishing the Independent Budget Analyst ("IBA") (Subitem B) and making global changes to the Municipal Code replacing "Mayor" for "City Manager" (Subitem C) be recommended for approval by the City Council?

Issue #1

The proposed Permanent Rules of Council developed by the City Attorney's office reflect the changes proposed by the Transition Committee, reorganize the existing

rules and reduce the number of rules. A few changes should be made to various provisions related to Council Committees to ensure the intent of the Transition Committee is implemented.

Chair's Recommendation: Recommend approval of the Permanent Rules of Council with the following changes:

1. Remove references requiring a committee chair to docket a matter referred to his or her committee within 120 days including those found in sections 6.7.4, 6.9, 2.4.1(a) & 2.4.1(b).
2. Remove the provision which allows two members of a committee to force an item onto the agenda of that committee.

Issue #2

In addition to the Permanent Rules of Council, the City Attorney has prepared ordinances that: 1) establish the office of the IBA and 2) amend the Municipal Code to identify the Mayor where the code now shows the City Manager. An ordinance has also been prepared to create the office of Independent Budget Analysis.

Chair's Recommendation: Recommend approval of the ordinance establishing the IBA as well as a global ordinance replacing "Mayor" for "City Manager" in the Municipal Code.

DISCUSSION

Permanent Rules

The City Attorney has drafted revisions to the Permanent Rules of Council implementing the policy decisions of the Strong Mayor Transition Committee. In the same way as Proposition F leaves the City Charter in tact and implements superceding regulations for the duration of the Strong Mayor trial period, these Permanent Rules also leave the existing rules in tact and will supercede them for the same period of time. The rules proposed by the City Attorney are reorganized in an attempt to provide a more logical order to the rules. The rules have three sources: 1) votes taken by the Strong Mayor Transition Committee, 2) provisions outlined in Proposition F, and/or 3) the existing Permanent Rules of Council (SDMC 22.0101)

Council Committees

Duties of Council Committee Chairs

On July 14, 2005 the Strong Mayor Transition Committee voted to give committee chairs the discretion of "whether and when to docket an item referred to the committee." At the same time,

provisions were made that the Council President or Council by a majority vote may (*emphasis added*) extract an item that has been “held in committee” for more than 120 days for a vote by the full City Council. These provisions are incorporated into Sections 6.7.6 and 2.2.1 respectively. However, sections 6.7.4, 6.9 & 2.4.1(a) & (b) contain language requiring committee chairs to place items that have been referred to them on their agendas within 120 days. This language is contrary to the discretion which was envisioned in the Strong Mayor Transition Committee’s direction.

Placement of items on committee agendas by multiple members of a committee

In the existing Permanent Rules of Council there are provisions for four members of the City Council to force an item onto the Council agenda and provisions for three members of a Committee to force an item onto a committee agenda when requested in writing. Both of these provisions are repeated in the new permanent rules. [See Sec. 6.7.5 and portions of Sec. 2.4.2] However, as the rule pertains to committees, the number of councilmembers necessary to force an issue onto the agenda has been reduced to two (2) to avoid a Brown Act violation. With that reduction, there is a concern that two members of a committee could significantly influence the committee’s agenda inconsistent with the authority of the Chair to set the agenda.

Quorum of Committees

On July 14, 2005, the Strong Mayor Transition Committee voted to reduce the membership of its standing committees to four members. Provisions were included to address the very real possibility of tie votes at committees directing that those items should be advanced for council consideration without any recommendation of the committee. The Committee did not articulate how many members of a committee should constitute a quorum. The attorney has written the permanent rules to indicate that a quorum shall be a majority of the members of a committee [Section 6.4.1]. Even though provisions have been developed to accommodate tie votes, it is important that when committees meet they are able to make specific recommendations or their purpose in the legislative process is lost. For that reason, a quorum of a committee should be a majority of its members.

Ordinance Establishing the Office IBA

This ordinance implements the Transition Committee’s direction to establishes the office of IBA. The ordinance describes the process for appointment and removal, qualifications and duties of the Office of IBA.

Global Change in the San Diego Municipal Code from City Manager to Mayor

This ordinance is necessary to add a provision to the Municipal Code recognizing the Mayor’s new role and transferring the rights, powers and duties of the City Manager to the Mayor.

CONCLUSION

The City Attorney's office has drafted three ordinances to implement Proposition F and the direction of the Strong Mayor Transition Committee: 1) Permanent Rules of Council, 2) implementing the Office of Independent Budget Analyst and 3) Changing the San Diego Municipal Code generally to recognize the change in the authority of the Mayor. All three ordinances supercede or add to existing sections of the Municipal Code and would sunset with the Strong Mayor trial period absent future action to extend them.

Respectfully submitted,



Councilmember Scott Peters
Chair, Council Transition Committee

Attachment: Summary of Transition Committee Decisions and location within Permanent rules of Council or other implementing Ordinance

Summary of Transition Committee Decisions and Implementation

Issue/Task	Council Transition Committee Actions	Transition Committee Vote/Date	Controlling Regulation
Independent Budget Analyst (IBA) Office			
Create the Office of the IBA			
Roles and responsibilities of the IBA			
• Generate reports on budget impacts of pending legislation when requested to do so by Council; and			
• Conduct fiscal research and analysis when requested to do so by Council of legislation introduced by the Mayor, City Council, Council Committees, or individual Councilmembers.			
Staffing levels			
• The Office of the IBA should be staffed appropriate to its mission. Initial staffing should begin with 9 professional positions, which includes 1 director and 8 professionals. The director of the office should have an advanced degree in policy, economics, and a minimum of a 4-year degree.			
• Direct the City Manager to return to the committee with an analysis assuming that the positions will come from existing positions in either the Mayor's Office or the City Manager's Office.			
IBA's Reporting Structure			
• The reporting structure should be prioritized as follows: 1. City Council as a whole, 2. Presiding Officer, 3. Committee Chairs, and 4. Individual Councilmembers.			
Council Legislative Analyst (OLA)			
Establish an office of Legislative Policy Analyst (4/27/05 Motion to create OLA : failed. Reconsidered on 7/15/05)		7/15/05 – approved (7-1)	PRC 6.6.4 & 6.6.5
Council Presiding Officer			
Presiding Officer to be called "Council President" (5-0)			
President selected by majority vote of the Council (5-0)			
President can be removed by majority vote of the Council (5-0)			
President's term of office will be 1 year (4-1)			
Duties of the President (4-1)			
• Chair meetings of the Council;			
• Manage the docketing process;			
• Coordinate closed session dockets with the Mayor and City Attorney;			
• Fill a Mayoral vacancy with limited powers;			
• Select the Presiding Officer Pro Tem, subject to a majority Council approval;			
• Appoint Committee Chairs & vice chairs, subject to a majority approval;			
• Refer matters to Council Committees;			
• Enforce the rules of the Council;			
• Determine which matters will be listed on the Consent Agenda;			

Key: PRC = Permanent Rules of Council; IBA Ordinance = Item 2B on today's agenda

Summary of Transition Committee Decisions and Implementation

Issue/Task	Council Transition Committee Actions	Transition Committee Vote/Date	Controlling Regulation
<ul style="list-style-type: none"> ➤ Request information regarding matters before the Council; <ul style="list-style-type: none"> • Call special meetings of the Council; and • Represent the Council at public functions and to other governments. ➤ During term, Council President receives one additional Full-Time Position for docketing purposes (5-0) 			
Council Committees <ul style="list-style-type: none"> ➤ Committee structure (8-0)* <ul style="list-style-type: none"> • Rules, Openness & Intergovernmental Relations (4 members) <ul style="list-style-type: none"> ▪ Permanent Rules of Council, City Charter, Intergovernmental Relations, Brown Act, Public Records Act, Community Right to Know, Accuracy of Government Information, Citizen's Right to Privacy, Consumer Protection, Efficiency and Effectiveness of Government Services, Nominations, Airports, Port District, and Interagency/Binational and Agreements. • Budget & Finance (4 members) <ul style="list-style-type: none"> ▪ Annual Budget Review, Capital Improvement Programs, Financial Reports, Taxes, Fees, Assessments, and Independent Budget Analyst Reports. • Land Use & Housing Committee (4 members) <ul style="list-style-type: none"> ▪ Planning, Land Use, Affordable Housing, Development Services, General Plan Amendments, Subdivisions, Community Facility Finance, Engineering, Annexations, Transportation Planning, Transit Services, Parking, Building Code/Inspection, Land Development Code, Utilities, Infrastructure Finance, and Housing Commission Quarterly Reports. • Public Safety and Neighborhood Services (4 members) <ul style="list-style-type: none"> ▪ Police, Fire, Paramedics, Neighborhood Parks, Recreation Programs, Youth Services, Senior Services, Neighborhood Revitalization, BIDs, Litter Control, MBE/WBE, Community Development Block Grant, Code Enforcement, Graffiti Abatement, and Parking Regulations and Enforcement. • Natural Resources & Culture Committee (4 members) <ul style="list-style-type: none"> ▪ Clean Water Program, Energy, Water, State and Federal Endangered Species Acts, Arts and Culture, TOT, Solid Waste Disposal, Recycling, APCD/Air Quality, Hazardous Waste, MSCP, Regional Parks and Open Space. ➤ Committee Representation (5-0) <ul style="list-style-type: none"> • President shall nominate committee chairs and vice chairs subject to majority Council confirmation • Committee chairs serve one-year renewable terms 	<p>6/2/05 – approved (see votes at left except *)</p> <p>*7/15/05 - approval of committee structure (8-0)</p>	<p>PRC Rule 6 & 2.4.1 (a-e)</p>	

Key: PRC = Permanent Rules of Council; IBA Ordinance = Item 2B on today's agenda

Summary of Transition Committee Decisions and Implementation

Issue/Task	Council Transition Committee Actions	Transition Committee Vote/Date	Controlling Regulation
Committee Process (5-0)	<ul style="list-style-type: none"> ➤ City Council, by majority vote and the President have the authority to refer matters to specific committees. ➤ Committee chairs have the authority to determine whether and when to calendar matters at their respective committees. ➤ Committee chairs have the authority to call hearings on matters related to the work of their committee. 		
Council President will chair the Rules Committee. (5-0)			
Retain the balance of the existing committee consultant structure (5-0)			
Rules Committee Consultant should work for and in the Office of the President. (5-0)			
Constituent Services			
➤ In keeping with current practices, each Councilmember is provided a budget to hire constituent service and policy staff as they see fit;			
➤ Implement a monitoring system for constituent requests, similar to the system currently in place. The system should be accessible to City Council and departments and track the responsiveness to constituents, with the caveat that an adequate budget is provided for various data management functions requested;			
➤ Establish a process in which the Citizens' Assistance Program Manager would provide quarterly reports to the Council Committee that oversees Neighborhood Services; and			
➤ The Mayor shall designate liaison positions in certain high priority departments whose purpose is to respond to Council requests.			
Budget Process			
➤ Create a budget working group;			
➤ Council to make recommendations of Council priorities by resolution to the Mayor no later than February 1.			
Legislative Process			
➤ Submission of fully drafted matters			
• By a Councilmember			
▪ Councilmember submits completed proposal including ordinance or resolution and digest prepared by City Attorney during "Introduction" portion of Council Meeting or to the City Clerk.			PRC Rule 7 2.2.1 (items "held in committee"
• By the Mayor (on his own initiative or on behalf of a mayoral department) using a 1472 or equivalent providing equivalent information - 2 ways			7.6.2 (docketing of items not subject to Mayoral veto)
		6/16/05 – approved (6-0)	
		6/16/05 – approved (6-0)	Future Council Policy – Under Development
		6/16/05 – approved (6-0)	Current Council Policies regarding the Budget are being reviewed for incorporation of this direction
		7/14/05 – approved (8-0)	PRC Rule 7

Key: PRC = Permanent Rules of Council; IBA Ordinance = Item 2B on today's agenda

Summary of Transition Committee Decisions and Implementation

Issue/Task	Council Transition Committee Actions	Transition Committee Vote/Date	Controlling Regulation
	<ul style="list-style-type: none"> ➤ Councilmember sponsor – follows process above <ul style="list-style-type: none"> ▪ Mayoral Department submits to Clerk for inclusion in “introductions portion of the council docket ‘introduced by the President at the request of the Mayor’” • Agencies follow similar process as mayoral method (ii) above. • When requested by a councilmember seeking to introduce a matter, the attorney shall prepare and ordinance or resolution and digest (including changes to current law and their legal implications) and deliver back to the requesting councilmember • Council President refers the matter to one committee or dockets for Council consideration ➤ Submission for referral to committee <ul style="list-style-type: none"> ➤ A Councilmember may introduce an item without preparation of an ordinance or digest. In such a case, the item shall be referred to a committee for refinement and then or concurrently to the City Attorney for development of ord/reso & digest. ➤ Committee Review <ul style="list-style-type: none"> ➤ Committee Chair decides when and whether to hear an item referred to the committee ➤ Committee Chair also has authority to introduce items at his committee directly. <ul style="list-style-type: none"> ▪ Majority Vote = referred to Council with recommendation for approval ▪ Tie vote = refer to Council without recommendation ▪ No majority vote = no referral to Council ➤ Extraction of an item “stuck in committee.” <ul style="list-style-type: none"> ➤ If an item has not been heard at committee following 120 days after referral, the item may be extracted for Council review by the President or by majority vote of the Council ➤ Council Review (per Prop F) <ul style="list-style-type: none"> ➤ 5-vote Council adoption ➤ Mayoral Veto ➤ 5-vote Council override 		

Key: PRC = Permanent Rules of Council; IBA Ordinance = Item 2B on today's agenda